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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,894	07/13/2007	Heiner Rinsche	RINSCH EI	4397
1444 7590 09/15/2008 BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303				
EXAMINER				
TRIGGS, ANDREW J				
ART UNIT		PAPER NUMBER		
3635				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/590,894

Applicant(s)

RINSCHKE, HEINER

Examiner

Andrew J. Triggs

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
- Paper No(s)/Mail Date 7/13/2007
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

For examination purposes, examiner will use the Figure in the WO 2005/085550 application.

Specification

2. The disclosure is objected to because of the following informalities: A figure is referenced in the specification, however no figures were included in the current application.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haid, US Patent # 4,599,841 in view of Kellner, US Patent Application Publication # 2004/0144050.

Regarding claim 1, Haid teaches, in Figure 1 floor panels (1) of which are laid at a distance from each other next to each other and comprise, a groove (9) which is arranged on the lateral surfaces thereof. Haid also teaches a plastic spacer (5) is arranged between adjacent floor panels (1), said spacer supporting a clamping crosspiece (7) on both sides thereof in a clamped manner in the respective groove (9). The panels (1), at their upper edges, exhibit a chamfer. The clamping crosspieces (7) present, towards the top, an essentially flat reference surface with short soft plastic knobs (8) formed by injection and only at the bottom have retaining lamellas (8) of a conical shape as seen in Figure 3. Haid does not teach a soft sealing member at the top of the spacer or that the floor panels are that of natural stone. However, Kellner teaches, in figure 4a, a piece (11) on top of a spacer (9) that is of a softer material (Page 2, Paragraph 23) that helps seal the gap between panels. Kellner also teaches, in Claim 2, that the panel (1) is that of natural stone. One of ordinary skill in the art at the time of the invention would have been motivated to include the softer cap material of Kellner with the spacer of Haid in order to provide a seal between the stone panels. Therefore, the invention as a whole would have been obvious to one of ordinary skill in the art at the time of the invention.

Regarding claim 2, Haid in view of Kellner teach a natural stone floor panel.

Furthermore, Haid teaches, in Figure 1, that the grooves (9) in the panels (1) are formed in the sides of the panels (1) and it can be seen that they are at a symmetrical height. Therefore, the invention as a whole would have been obvious to one of ordinary skill in the art at the time of the invention.

Regarding claim 3, Haid in view of Kellner teach a natural stone floor panel. Both Haid and Kellner are silent as to the exact dimensions of the grooves of the floor panels. However, it would have been an obvious matter of design choice to make the grooves the exact dimensions as described by the applicant because a change of size is generally recognized as being within the level of ordinary skill in the art. Therefore, the invention as a whole would have been obvious to one of ordinary skill in the art at the time of the invention.

Regarding claim 4, Haid in view of Kellner teach a natural stone floor panel. Haid also teaches, in Figure 2, that the crosspieces (7) are essentially flat with engagement portions that are short plastic knobs (8) and in another embodiment, he teaches that the engagement portions are lamellas (Figure 3) of a conical shape. It would have been obvious to try these two configurations and reasonably expect that the outcome would result in the best configuration being plastic knobs on the top and conical shaped lamellas on the bottom. Therefore, the invention as a whole would have been obvious to one of ordinary skill in the art at the time of the invention.

Regarding claim 5, Haid in view of Kellner teach a natural stone floor panel. Haid also teaches, in Figures 1 and 2, that the spacer (5) has a vertical web (6) that extends from the crosspieces (7) to the surface of the panels (1) with which it is aligned. Therefore, the invention as a whole would have been obvious to one of ordinary skill in the art at the time of the invention.

Regarding claim 6, Haid in view of Kellner teach a natural stone floor panel. As per claim 1, Kellner teaches, in figure 4a, a piece (11) on top of a spacer (9) that is of a softer material (Page 2, Paragraph 23) that helps seal the gap between panels. Therefore, the invention as a whole would have been obvious to one of ordinary skill in the art at the time of the invention.

Regarding claim 7, Haid in view of Kellner teach a natural stone floor panel. As per claim 1, the panels (1), at their upper edges, exhibit a chamfer. Due to the nature of the soft flexible plastic material of Kellner (Page 2, Paragraph 23), the spacer top (11) would fill in the space created by the chamfer in order to keep moisture out between the panels. Therefore, the invention as a whole would have been obvious to one of ordinary skill in the art at the time of the invention.

Regarding claim 8, Haid in view of Kellner teach a natural stone floor panel. As per claim 1, Haid in view of Kellner teach panels (1) made of natural stone as in claim 2 of Kellner. Therefore, the invention as a whole would have been obvious to one of ordinary skill in the art at the time of the invention.

Regarding claim 9, Haid in view of Kellner teach a natural stone floor panel. As per claim 1, Haid in view of Kellner teach the spacer (5) with the soft flexible tip (11)

of Kellner. Therefore, the invention as a whole would have been obvious to one of ordinary skill in the art at the time of the invention.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. SEE NOTICE OF REFERENCES CITED.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Triggs whose telephone number is 571-270-3657. The examiner can normally be reached on Monday through Thursday 7:00am - 5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Richard E. Chilcot, Jr./
Supervisory Patent Examiner, Art Unit 3635

/Andrew J Triggs/
Examiner, Art Unit 3635